

# **EXHIBIT A**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3  
4

5 CHASOM BROWN, WILLIAM BYATT,  
6 JEREMY DAVIS, CHRISTOPHER  
7 CASTILLO, and MONIQUE  
8 TRUJILLO, individually and on  
9 behalf of all other similarly  
10 situated,

11 Plaintiffs,

12 No.

13 vs.

14 5:20-cv-03664-LHK-SVK

15 GOOGLE LLC,

16 Defendant.  
17 \_\_\_\_\_/

18 VIDEOTAPED DEPOSITION OF CHASOM BROWN  
19 Remote Zoom Proceedings  
20 Los Angeles, California  
21 Thursday, January 13, 2022  
22

23 REPORTED BY:

24 LESLIE ROCKWOOD ROSAS, RPR, CSR 3462

25 Pages 1 - 208

Job No. 5028094

Page 1

1 I'll click on a link, and it takes me to a different  
2 browser. It might even be the phone's browser or  
3 Samsung's browser. But that's -- whenever I notice I'm  
4 in one of those browsers, I tend to get out of them just  
5 because it's not familiar. 12:32:46

6 Q. BY MS. JENKINS: What type of devices do you use  
7 the Chrome browser on?

8 A. On my laptop, on my phone, on my tablet.

9 Q. And as you mentioned your phone, is it an  
10 Android? 12:33:18

11 A. It is.

12 Q. And is your tablet an Android or Apple?

13 A. It is an Android. I'm sure I have an Apple  
14 tablet; I just never use it. I can't stand Apple  
15 products. 12:33:37

16 Q. Does anyone else ever use any of your devices?

17 A. From time to time.

18 Q. Can you give me a high-level answer about who --  
19 who would use your devices, if it's a family member or  
20 friend or business partner? 12:34:02

21 A. Yeah, like my business partner might hop on my  
22 laptop or my brother or my girlfriend may hop on my  
23 phone.

24 Q. Did you say that you began using Incognito mode  
25 for Chrome when it -- when it first came out? 12:34:30

1           A. Yes, or when it was first introduced to me. I'm  
2           assuming that's when it first came out because I was  
3           unaware of it before that. So when it was first  
4           introduced to me through the -- how it popped up or  
5           something, it seemed like a new feature. So that's when           12:34:50  
6           I started using it.

7           That might not have answered your question. I'm  
8           sorry.

9           Q. That's all right.

10                   How often do you use Incognito mode?           12:35:01

11           A. It -- it -- it ranges, but maybe a couple times  
12           a week.

13           Q. And do you ever keep Incognito sessions open for  
14           longer than just while you're browsing?

15           A. Sometimes.           12:35:28

16           Q. Have you left Incognito sessions open for days  
17           at a time?

18           A. I have.

19           Q. How about for more than a week or two weeks at a  
20           time?           12:35:46

21           A. I would say that's rare, but I believe it's  
22           happened.

23           Q. As we sit here today, can you tell me your  
24           understanding of the difference between Chrome basic mode  
25           and Chrome Incognito mode?           12:36:04

1 MR. LEE: Objection. Lack of foundation.

2 THE WITNESS: Yeah. Chrome is normal browsing  
3 with traditional data collection. Incognito mode is a  
4 private browsing mode that doesn't -- where Google does  
5 not collect your data. 12:36:23

6 Q. BY MS. JENKINS: Apart from the Chrome mode of  
7 Incognito, do you know what the term "incognito" means?

8 A. Yeah, hidden. Like it's probably synonymous  
9 with invisible.

10 Q. You think that "incognito" and "invisible" are 12:36:58  
11 the same?

12 A. Yeah. Well, yes, I think "incognito" means it's  
13 probably closer to hidden, but both. It's like if I were  
14 to define it, that would probably -- say something like  
15 that. Yes, I assume it to be not seen, hidden, you know, 12:37:20  
16 like something like that.

17 Q. Prior to taking part in this case, did you think  
18 that Incognito mode would completely conceal your  
19 internet activity from everyone?

20 A. From Google. 12:37:44

21 Q. Does that mean there are other parties that you  
22 didn't have that expectation for?

23 A. Yes, because I don't believe that Google  
24 can control like everything outside of Google. I  
25 don't -- yeah, I -- I don't really know the 12:38:10

1 Q. Do you have any evidence to support that belief?

2 MR. LEE: You know what? I'm going to direct  
3 you not to answer that question as it may reveal  
4 attorney-client communications.

5 THE WITNESS: I won't be answering the question. 15:24:28

6 MS. JENKINS: That's fine. I'm -- I'm -- I'm  
7 just -- I'm -- all right, James, is it your  
8 representation that there's no information that he could  
9 give on that question that would not be privileged?

10 MR. LEE: I think he's given you a ton of 15:24:43  
11 information already. So to the extent you're asking for  
12 more, I think that's where you're now getting into  
13 privilege territory.

14 Q. BY MS. JENKINS: Do you have any evidence, not  
15 related to your involvement in this litigation, that 15:24:58  
16 using Incognito mode takes more energy on your phone  
17 rather than basic mode?

18 A. Well, sending out more data just in general  
19 takes more energy from a phone, as -- as much as I  
20 understand phones and data. 15:25:25

21 Q. Have you seen any effect on the amount of data  
22 that you're using on your cell phone plan that you can  
23 directly relate to your use of Incognito mode?

24 A. Nothing that I could point to right now. I  
25 haven't done the -- the calculation. 15:25:48

1 Q. Is there any other -- other than the additional  
2 energy that you mentioned and potentially an effect on  
3 your cell phone plan, is there any other harm that you  
4 have suffered as a result of Google's conduct?

5 A. Yes. When you have your -- your privacy 15:26:22  
6 breached, I consider that harm. And/or when you sign,  
7 you know, a contract and the other party doesn't live up  
8 to their side of the contract, I consider that harm.

9 Q. What type of harm is that?

10 MR. LEE: Objection to the extent it calls for a 15:26:50  
11 legal conclusion.

12 THE WITNESS: Well, I believe in the -- in the  
13 Amended Complaint, I think one of the complaints is a  
14 breach of contract. So that's where we point out the  
15 harm. 15:27:14

16 Q. BY MS. JENKINS: All right. Is there any -- any  
17 harm in addition to the ones that you've just named?

18 A. Well, that's the biggest thing. I think  
19 probably a lot of what I named isn't the biggest thing.  
20 It's all of my data that has been collected that is being 15:27:31  
21 used to -- without my knowledge, without my consent, with  
22 not even knowing what it is and what's being done with  
23 it, how it's being monetized, like that -- there's a  
24 whole, you know, unknown harm out there as well.

25 Q. Have you lost any property as a result of 15:27:59

1 Google's conduct?

2 A. I don't believe I lost any property.

3 Q. Have you ever purchased any products as a result  
4 of digital advertisements that you believe were targeted  
5 by Google?

15:28:24

6 A. I -- yeah, I've purchased products online  
7 through targeted advertising. It was most likely Google.  
8 I didn't really take the time to figure out where it was,  
9 but yes, very much most likely by Google. And I could  
10 probably, you know, look at the search or something like  
11 that to figure out that.

15:28:45

12 But, yeah, the short version of that long-winded  
13 horrible answer is yes, I've -- I've purchased product  
14 from targeted advertising.

15 Q. Are you aware that many free services and  
16 content on the internet are paid for by advertising?

15:29:00

17 A. Yeah, I'm aware. I'm aware.

18 Q. And you understand that includes targeted  
19 advertising?

20 A. Yeah.

15:29:18

21 Q. And do you generally understand that users' data  
22 is being used for targeted advertising?

23 A. Yeah.

24 Q. And you've seen tailored ads when you've been  
25 using Chrome; correct?

15:29:39